



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
CHARITIES BUREAU

212.416.8391  
Yael.Fuchs@ag.ny.gov

March 14, 2023

**Via Electronic Filing**

Hon. Christian F. Hummel  
James T. Foley U.S. Courthouse  
445 Broadway, Room 441  
Albany, New York 12207

Re: *VDARE Foundation, Inc. v. James*, No. 22-cv-1337

Dear Judge Hummel:

The Attorney General writes to apprise the Court of a decision from the New York Supreme Court, Appellate Division, relevant to issues raised by the Motion to Dismiss. The Attorney General has argued that a January 23, 2023 final decision by the State Supreme Court compelling subpoena production has res judicata affect barring VDARE's lawsuit challenging the validity of that same subpoena. *See* D.E. 27. Although VDARE has appealed the Supreme Court's decision, the Appellate Division denied its motion for a stay pending appeal, and the Supreme Court's order remains in full force and effect. Because the Appellate Division's ruling bears directly on the procedural history addressed in our Office's recent briefing to this Court, I enclose a copy of that decision for the Court's review.

Respectfully submitted,

/s/ Yael Fuchs  
Assistant Attorney General

Encl.

cc: Counsel of Record (via ECF)

**FILED: APPELLATE DIVISION - 1ST DEPT 03/09/2023 10:12 AM**

2023-00672

NYSCEF DOC. NO. 7

**Supreme Court of the State of New York**

RECEIVED NYSCEF: 03/09/2023

**Appellate Division, First Judicial Department**

Present – Hon. Barbara R. Kapnick,  
 Cynthia S. Kern  
 Anil C. Singh  
 Saliann Scarpulla  
 John R. Higgitt,

Justice Presiding,

Justices.

People of the State of New York, by Letitia  
 James, Attorney General of the State of New  
 York,

Motion No. **2023-00691**

Index No. 453196/22

Case No. 2023-00672

Petitioner-Respondent,

-against-

VDARE Foundation, Inc.,  
 Respondent-Appellant.

An appeal having been taken to this Court from an order of the Supreme Court, New York County, entered on or about January 23, 2023,

And respondent-appellant having moved to stay enforcement of the aforesaid order pending the hearing and determination of the appeal taken therefrom,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied. The interim relief granted by order of a Justice of this Court, dated February 08, 2023 is hereby vacated.

ENTERED: March 09, 2023



Susanna Molina Rojas  
 Clerk of the Court